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10/737,048	12/16/2003	Douglas G. Seymour	03-2-315	7677

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William H. McNeill
OSRAM SYLVANIA Inc.
100 Endicott Street
Danvers, MA 01923

EXAMINER

STERLING, AMY JO

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS G. SEYMOUR,
DAVID HUMPHREY, and MICHAEL J. SWANTNER

Appeal 2009-015301
Application 10/737,048
Technology Center 3600

Before STEVEN D.A. McCARTHY, MICHAEL W. O'NEILL, and
STEFAN STAICOVICI, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown in the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Douglas G. Seymour, David Humphrey, and Michael J. Swantner (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-3 under 35 U.S.C. § 102(b) as anticipated by Bolante (U.S. Patent No. 4,490,576, issued Dec. 25, 1984). We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

The Invention

The claims on appeal relate to an assemblage including an electrical connector and a metal support.

Claim 1, reproduced below, with emphasis added, is representative of the subject matter on appeal.

1. An assemblage comprising:
an electrical connector having a metal body with a tubular projection having a push-through portion having a first diameter and an engaging portion having a second diameter larger than said first diameter; and
a metal support having a major part that is substantially rigid and includes an aperture formed by a plurality of deflectable spokes, *said aperture having a center opening with a third diameter greater than said first diameter* and less than said second diameter, whereby said tubular projection push-through portion slides through said aperture and said spokes engage said second diameter of said engaging portion and mount said electrical connector with said support.

OPINION

Issue

The determinative issue in this appeal is:

Whether Bolante's metal support (retainer element 14) has an aperture with a center opening, formed at the tips of the deflectable spokes (62), of a third diameter greater than the first diameter (smallest diameter of 32) of the push-through portion of the electrical connector (30).

Analysis

Appellants contend that the aperture of Bolante's metal support (retainer element 14) does not have a center opening, formed at the tips of the deflectable spokes (62), of a third diameter greater than a first diameter (smallest diameter of 32) of the push-through portion of the electrical connector (30). App. Br. 7. Appellants also contend that column 4, lines 1-5 of Bolante supports their contention concerning the third diameter not being greater than the first diameter, by stating that:

The distal ends of all of the fingers 62 terminate on the circumference of an imaginary circle which is smaller in diameter than the smallest possible diameter of the metallic portions 32 of a given nominal size of cable 30.

Id.

The Examiner alleges that Bolante anticipates claim 1 by finding that the smaller part of metallic portion 32 constitutes the first diameter and the tips of the spokes 62 of the retainer element 14 define the third diameter being greater than the first diameter. Ans. 3-4. In the Response to Argument section of the Examiner's Answer, the Examiner posits that Bolante inherently teaches that the center opening, located at the tips of the spokes 62 of the retainer element 14, has a larger diameter than the diameter

of the smaller portion of 32 after deflection and a smaller diameter than the diameter of the larger portion of 32 prior to deflection. Ans. 6. In other words, the Examiner posits that “prior to deflection and in a non-deflected state, it is inherent that the spokes (62) will have created an imaginary circle diameter that is less than the deflected diameter.” *Id.* The Examiner also posits that “[s]ince the spokes frictionally rest on the second diameter in a deflected state, it is clear that in a non-deflected state that the diameter of this imaginary circle created by the spokes will be less than the second diameter.” *Id.* The Examiner also posits that since the claim does not specify whether the third diameter of the center opening is measured when the spokes are in a deflected or non-deflected state, the Examiner’s interpretation is valid.

We agree with Appellants that Bolante does not anticipate claim 1. We are not persuaded by the Examiner’s supposition as to the size of the center opening’s diameter in a deflected state versus a non-deflected state. As pointed out by Appellants, at column 4, lines 1-5, Bolante specifically discloses that the diameter of the center opening, defined at the distal ends of the spokes 62 of the retainer element 14, is smaller than the smallest possible diameter of the metallic portion 32. Thus, Bolante clearly does not meet the claim recitation of “said aperture having a center opening with a third diameter greater than said first diameter.”

In view of the foregoing, we do not sustain the Examiner’s rejection of claims 1-3 under 35 U.S.C. § 102(b) as anticipated by Bolante.

CONCLUSION

Bolante's metal support (retainer element 14) does not have an aperture with a center opening, formed at the tips of the deflectable spokes (62), of a third diameter greater than the first diameter (smallest diameter of 32) of the push-through portion of the electrical connector (30).

DECISION

We reverse the Examiner's rejection of claims 1-3 under 35 U.S.C. § 102(b) as anticipated by Bolante.

REVERSED

Klh

WILLIAM H. McNEILL
OSRAM SYLVANIA INC.
100 ENDICOTT STREET
DANVERS, MA 01923